

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : CONSENT PRELIMINARY ORDER  
- v. - : OF FORFEITURE/  
GARY WHEELER, : MONEY JUDGMENT  
Defendant. : 23 Cr. 662 (CS)  
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WHEREAS, on or about January 5, 2024, GARY WHEELER (the "Defendant"), was charged in a one-count Superseding Information, S1 23 Cr. 662 (CS) (the "Information"), with conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 371 (Count One);

WHEREAS, the Superseding Information included a forfeiture allegation as to Count One of the Superseding Information, seeking forfeiture to the United States, pursuant to pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), of any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense charged in Count One of the Superseding Information, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offense charged in Count One of the Superseding Information;

WHEREAS, on or about January 5, 2024, the Defendant pled guilty to Count One of the Superseding Information, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Information and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), a sum of money equal to

\$348,118.63 in United States currency representing the amount of proceeds traceable to the commission of the offense charged in Count One of the Information;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$348,118.63 in United States currency, representing the amount of proceeds traceable to the offense charged in Count One of the Superseding Information that the Defendant personally obtained; and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offense charged in Count One of the Superseding Information that the Defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorneys, Jared Hoffman and Derek Wikstrom of counsel, and the Defendant, and his counsel, Richard Portale, Esq., that:

1. As a result of the offense charged in Count One of the Superseding Information, to which the Defendant pled guilty, a money judgment in the amount of \$348,118.63 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense charged in Count One of the Superseding Information that the Defendant personally obtained, shall be entered against the Defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, GARY WHEELER, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, 26 Federal Plaza, New York, New York 10278 and shall indicate the Defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment into the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

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8. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS  
United States Attorney for the  
Southern District of New York

By: Jared Hoffman  
JARED HOFFMAN  
DEREK WIKSTROM  
Assistant United States Attorneys  
One St. Andrew's Plaza  
New York, NY 10007  
(914) 993-1928/(212) 637-1085

1/5/24  
DATE

GARY WHEELER

By: Gary Wheeler  
GARY WHEELER

1.5.24  
DATE

By: Richard Portale  
RICHARD PORTALE, ESQ.  
Attorney for Defendant  
245 Main Street Suite 605  
White Plains, NY 10601

1.5.24  
DATE

SO ORDERED:

Cathy Seibel  
HONORABLE CATHY SEIBEL  
UNITED STATES DISTRICT JUDGE

1/5/24  
DATE